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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,886	04/05/2001	Rinko Katsuda	AA352F	7733

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EXAMINER	
DOUYON, LORNA M	

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/806,886	KATSUDA ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,7 and 9-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,7 and 9-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 26, 2004 has been entered.

2. Claims 1, 7, 9-11 are pending.

3. The rejection of claims 6-7 and 9-10 under 35 U.S.C. 112, second paragraph is withdrawn in view of applicant's amendment.

4. The rejection of claims 1, 6-7 and 9-11 under 35 U.S.C. 103(a) as being unpatentable over Akay et al. (WO 93/01269), hereinafter "Akay" in view of Powell et al. (US Patent No. 5,804,544) in further view of Baginski et al. (US Patent No. 4,652,392) is withdrawn in view of applicants' amendment and arguments therein.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1, 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steventon et al. (WO 97/17939), in view of Powell et al. (US Patent No. 5,804,544), hereinafter "Powell" in further view of Baginski et al. (US Patent No. 4,652,392), hereinafter "Baginski".

Steventon teaches a spray-dried, granular powder comprising from about 50% to about 99% of a water-soluble carrier, from about 1% to about 50% of a hydrophobic silicone oil dispersed within the carrier, wherein the spray-dried powder has a volume average particle size in the range from about 20 μm and that the 500 μm, the powder being prepared by spray drying an aqueous dispersion of the silicone oil and the water-soluble carrier, characterized in that the silicone oil is present in the dispersion in the form of discrete droplets having a volume average droplet size in the range from about 0.5 μm to about 20 μm (see abstract). The granular powders have a volume average particle size in the range from about 20 μm to about 500 μm (see page 6, lines 14-16). The powders of the invention have a wide range of application, for example, they may be used to deliver antifoam activity to detergent compositions or to deliver skin conditioning benefits in face powders and the like, preferably dental preparations (see page 9, lines 27-34). The dental preparation can be in tablet, granular or powder form (see page 14, lines 33-34) and comprises one or more bleaching agents, organic peroxyacid precursors, effervescence generators, chelating agents, etc. (see page 10, lines 1-3), the effervescence generators include a combination of at least one alkali metal carbonate in admixture with at least one organic acid such as malic or maleic acid (see page 10, lines 23-36). Steventon, however, fails to disclose silicone containing flakes having the dimensions as those recited.

Powell teaches a similar particulate component (suds suppressing system) comprising a silicone antifoam compound and a water-soluble or water-dispersible carrier material (see abstract; col. 6, lines 22+), which is in the form of granules like spray-dried particles, flakes, prills, marumes or noodles (see col. 6, lines 6-21).

Baginski teaches irregularly shaped particulate silicone suds controlling component, of similar ingredients, in flake form having a thickness of about 0.04 to about 0.15 cm wherein in such flake form, the silicone does not substantially come into contact with the detergent surfactant ingredient when admixed with or incorporated into a detergent composition (see col. 6, lines 16-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the spray-dried silicone containing powders of Steventon with flakes because the substitution of art recognized equivalents as shown by Powell is within the level of ordinary skill in the art, the flake form would prevent the silicone come into contact with the detergent surfactant ingredient when admixed with or incorporated into a detergent composition as taught by Baginski and to reasonably expect the flakes to have a dimension within those recited because Baginski teaches that a similar suds controlling component in flake form have a thickness of about 0.04 to about 0.15 cm.

7. Claims 1, 7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baginski in view of Inamorato (US Patent No. 4,252,664), in further view of Steventon.

Baginski teaches a granular detergent compositions having a controlled suds pattern comprising (a) suds suppressing amount of a stable suds controlling component comprising a

silicone suds controlling agent releasably incorporated in a water-soluble or water-dispersible, substantially non-surface active, detergent-impermeable and non-hygroscopic carrier, said component being substantially free of hygroscopic water-soluble inorganic salts and in the form of irregularly shaped particles having a minimum dimension not less than about 0.05 cm and a maximum dimension being at least about 20% greater than the minimum dimension; and (b) a sudsing detergent component like anionic detergents (see col. 1, lines 43-60). The irregularly shaped particulate silicone suds controlling component can be conveniently prepared in a highly preferred flake form having a thickness of about 0.04 to about 0.15 cm wherein in such flake form, the silicone does not substantially come into contact with the detergent surfactant ingredient when admixed with or incorporated into a detergent composition (see col. 6, lines 16-36). The detergent composition can contain all manner of additional materials commonly found in laundering and cleaning compositions (see col. 11, lines 16-18). Baginski, however, fails to disclose the incorporation of a foaming component comprising an effervescent granule as those recited.

Inamorato teaches granular detergent compositions suitable for use in clothes-washing machines (see col. 1, lines 10-13) comprising (1) primary granules of one composition (e.g. spray-dried built detergent) and (2) effervescent granules containing a binder, an acid, a carbonate reactive with the acid (see abstract), wherein the size of the effervescent granules are in the range of about 0.2 to 3 mm (see col. 4, lines 42-43). The carbonate is preferably sodium carbonate and the suitable acids include organic acids such as citric acid (see col. 1, lines 57-65). Among the materials which may be used as binders are higher fatty acids (of, e.g. 16-22 carbon atoms), polyalkylene glycols (e.g. polyethylene glycols), non-ionic detergents (e.g.

polyethoxylation products made by reacting ethylene oxide with fatty alcohol, fatty acid, fatty amine, alkyl phenol or fatty amide, amides), see col. 1, lines 28-39. One convenient process for making the effervescent granules is to dry-blend the ingredients in finely divided form, then heat the blend to fuse the binder (see col. 4, lines 1-6). The size of the effervescent granules may be varied, e.g. in the range of about 0.2 to 3 mm (see col. 4, lines 42-50). Inamorato, however, fails to specifically disclose, as the organic acid, malic or maleic acid.

Steventon teaches the equivalency of citric acid, malic acid and maleic acid in a similar effervescence composition (see page 10, lines 32-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the effervescent granules of Inamorato into the granular detergent composition of Baginski because Baginski specifically desires additional materials commonly found in laundering and cleaning compositions and Inamorato teaches effervescent granules suitable for washing fabrics and to substitute citric acid with malic or maleic acid because the substitution or art recognized equivalents as shown by Steventon is within the level of ordinary skill in the art.

Response to Arguments

8. Applicants' arguments filed November 26, 2004 have been fully considered but they are not persuasive.

With respect to the rejection based upon Steventon in view of Powell in further view of Baginski, Applicants argue that the combination of references fails to teach either expressly or

impliedly an acid source that is substantially anhydrous maleic acid, malic acid or a combination thereof.

The Examiner respectfully disagrees with the above argument because Steventon, on page 10, lines 23-36, teaches an effervescence generator, a material which in the presence of water releases carbon dioxide or oxygen with effervescence, and wherein the acid is preferably malic acid. This impliedly teaches that the acid used should be anhydrous because if water is already present, the acid would have reacted with the carbonate and the effervescence generator would no longer be effective. Hence, the acid and carbonate sources are impliedly taught as being in their anhydrous state to function effectively as effervescence generator in the presence of water during the washing process.

9. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. The references are considered cumulative to or less material than those discussed above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571)-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
Primary Examiner
Art Unit 1751